MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2015/2016

UHL2612 – HUMAN RIGHTS LAW

(All Sections / Groups)

10 MARCH 2016
Reading Time : 2.30pm – 2.45pm
(15 Minutes)
Answering Time: 2.45pm – 5.45pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are not allowed to bring in any statute into the Examination Hall.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1 [25 marks]

a) Explain the significance of the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic Social and Cultural Rights* (ICESCR) in international human rights law.

(7 marks)

b) What are the major differences between ICCPR and ICESCR?

(10 marks)

c) Can the human rights policies and practices in Malaysia improve if Malaysia become a State party to ICCPR and ICESCR?

(8 marks)

(Total: 25 marks)

QUESTION 2 [25 marks]

a) Explain some of the rights claimed by the indigenous people around the world.

(12 marks)

b) Are the laws in Malaysia sufficient to protect the Orang Asli?

(13 marks)

(Total: 25 marks)

Continued...

QUESTION 3 [25 marks]

The High Court delivered a landmark decision in *Noorfadilla binti Ahmad Saikin v Chayed bin Basirun and Ors* [2012] 1 CLJ 769 when it held that refusal to employ a woman on the grounds of pregnancy alone is a form of gender discrimination, and thus unconstitutional under Article 8 of the Federal Constitution. The learned Judge, Dato' Zaleha binti Yusuf, opined that the Court had "no choice" but to refer to *Convention on the Elimination of Discrimination Against Women* (CEDAW) in clarifying the term 'equality' and the concept of gender discrimination under Article 8(2) of the Federal Constitution. Relying on *Mohd Ezam Mohd Noor v Ketua Polis Negara* [2002] 4 MLJ 449, the Court held that as CEDAW is a convention and not mere declaration, it has the force of law and is binding on member states.

Discuss the above in light of CEDAW.

(Total: 25 marks)

QUESTION 4 [25 marks]

Malaysia acceded to the *Convention on Rights of Child* (CRC) in 1995 and introduced the Child Act in 2001. Discuss the areas of concern in respect of children's rights in Malaysia and analyse the reservations made to some of the Articles under CRC.

(Total: 25 marks)

Continued...

QUESTION 5 [25 marks]

The Federal Court in *Government of Malaysia & Ors v Loh Wai Kong* [1979] 2 MLJ 33 has defined personal liberty according to the definition made by the Indian Supreme Court in *AK Gopalan v State of Madras* AIR [1950] SC 27 in which Mukherjee J said:

> In ordinary language, "personal liberty" means liberty relating to or concerning the person or body of individual, and "personal liberty" in this sense is the antithesis of physical restraint or coercion. According to Dicey, who is an acknowledge authority of subject, "personal liberty" means a personal right not to be subjected to imprisonment, arrest or other physical coercion in any manner that does not admit of legal justification: vide Dicey on Constitutional Law, Edition 9, pages 207, 208. It is, in my opinion, this negative right of not being subjected to any form of physical restraint or coercion that constitutes the essence of personal liberty.

Discuss.

(Total: 25 marks)

End of page